

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

Date of Notice: January 11, 2008

Public Notice Number: PN2008-0003

Comment Period: January 14, 2008 - February 12, 2008

Action: Notice of Proposed Assessment of Class II Clean Water Act Section 309(g)(2)(B) Administrative Penalties and Opportunity to Comment

Under Section 309(g)(2)(B) of the Clean Water Act, 33 U.S.C. § 1319(g)(2)(B), EPA is authorized to assess a civil penalty only after providing the person to be assessed the civil penalty with written notice and the opportunity to request a hearing and after providing interested persons with public notice of and reasonable opportunity to comment on the proposal to assess the penalty. In a Class II proceeding under Section 309(g)(2)(B), EPA may assess against a person an administrative civil penalty of up to \$137,500 for violations of the Clean Water Act occurring after January 31, 1997 and on or before March 15, 2004, and up to \$157,500 for violations occurring after March 15, 2004. Class II proceedings are conducted in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Order, and the Revocation, Termination or Suspension of Permits” (the “Consolidated Rules”) at 40 C.F.R. Part 22 .

The procedure by which the public may submit comments on a proposal to assess a Class II civil penalty or participate in a Class II proceeding is set forth in the Consolidated Rules. The deadline for submitting comments on a proposal to assess a Class II civil penalty is 30 days after the issuance of public notice.

Pursuant to Section 309(g)(2)(B), EPA is providing public notice of the following proposed Class II administrative penalty assessment:

In the Matter of Robert Ray and Ray Builders, Inc.

Name and Mailing Address of Respondent:

Robert Ray
Ray Builders, Inc.
52 Bayside Ave.
Ellsworth, ME 04605

Name and Address of Facility or Site Addressed by Complaint:

Alton Ave.
Ellsworth, ME 04605

Description of Business or Activity Conducted by the Respondent:

Contractor and former owner of residential subdivision

Description of Violations Alleged in Complaint:

Unauthorized discharges of dredged and/or fill material into 3.8 acres of wetlands without a permit, in violation of Section 404 of the CWA, between 1989 and 2003.

Proposed Penalty: \$16,017. The proposed penalty has been mitigated by a Supplemental Environmental Project (SEP), in which Respondents have agreed to donate a conservation easement on a nearby 17-acre parcel off Hillside Road in Ellsworth, Maine. The SEP parcel contains a valuable wetlands/upland mosaic within 1/4 mile of two bald eagle nesting zones.

Name of Case:

In the Matter of Robert Ray and Ray Builders, Inc.

Docket Number: CWA-01-2008-0028

Date Filed with Regional Hearing Clerk: N/A

Name, Mailing Address, and Telephone Number of Regional Hearing Clerk:

Wanda Rivera, Regional Hearing Clerk, U.S. Environmental Protection Agency Region I,
One Congress Street, Suite 1100 (RAA), Boston, MA 02114-2023; (617) 918-1113

FOR FURTHER INFORMATION: Persons wishing to receive a copy of the Consolidated Rules, review the complaint or other documents filed by the parties in this proceeding, comment upon the proposed penalty assessment, or participate in any hearing that

may be held, should contact the Regional Hearing Clerk identified above. Unless otherwise noted, the public record for the proceeding is located at U.S. Environmental Protection Agency Region I, One Congress Street, Suite 1100, Boston, Massachusetts, and the record will be open for public inspection during normal business hours.

Because this matter involves a CWA Section 309(g)(2)(B) proceeding which is proposed to be simultaneously commenced and settled under 40 C.F.R. § 22.13(b), this matter will not be resolved or settled until 10 days after the close of the public comment period in accordance with 40 C.F.R. § 22.45(b).

